

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA, and  
STATE OF NEW MEXICO, ex rel. STATE  
ENGINEER,

Plaintiffs,

and

ZUNI INDIAN TRIBE, NAVAJO NATION,

Plaintiffs in Intervention,

V.

A & R PRODUCTIONS, et al.,

Defendants.

No. 01-cv-0072 MV/WPL

# ZUNI RIVER BASIN ADJUDICATION

Subfile No. ZRB-4-0169

## ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

This matter is before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition (PFRD), filed September 9, 2016 (Doc. 3313), and the Plaintiffs' joint Motion for Summary Judgment, filed August 15, 2016 (Doc. 3306). Subfile Defendants Henry Ray and Rebecca Grizzle did not respond to the motion for summary judgment within the time allotted and did not request an extension of time to respond. However, the Grizzles did submit a response to the motion for summary judgment on September 12, 2016. (Doc. 3314.) The Grizzles concede that the response was late. (*Id.*) The only semblance of argument presented in the Grizzles' response relates to the Pacific Railroad Act of 1862, but there are no factual or legal assertions contained in the response other than that Mr. Grizzle has read the Act. (*Id.*)

Before the deadline to file objections to the PFRD, the Grizzles submitted a request for appellate review of the PFRD, which the Court construes as objections under 28 U.S.C. § 636(b)(1). Objections to a PFRD “must be both timely and specific to preserve an issue for de novo review by the district court or for appellate review.” *United States v. One Parcel of Real Prop., with Blgs., Appurtenances, Improvements, & Contents*, 73 F.3d 1057, 1060 (10th Cir. 1996). The Grizzles again summarily state that their water rights are governed by the Pacific Railroad Act of 1862, without additional citation or argument.

The Court finds that these objections are insufficiently specific to allow the Court to focus in on alleged errors in the PFRD. Accordingly, any objections the PFRD are overruled.

IT IS THEREFORE ORDERED that:

- 1) the PFRD is adopted as an order of the Court;
- 2) the Plaintiffs’ Motion for Summary Judgment (Doc. 3306) is GRANTED;
- 3) the right of the Defendants, Henry Ray and Rebecca Grizzle, to divert and use the public waters of the Zuni River Stream System, Sub-areas 1, 2, and 3, is as set forth below:

**WELL**

**Map Label:** 2A-1-W035

**OSE File No:** G 01538

**Priority Date:** 12/31/1950

**Purpose of Use:** NON 72-12-1 DOMESTIC & LIVESTOCK

**Well Location:** As shown on Hydrographic Survey Map 2A-1

**S. 29 T. 12N R. 18W 1/4, 1/16, 1/64 SE SE SE**

**X (ft): 2,448,373 Y (ft): 1,542,465**

**New Mexico State Plane Coordinate System, West Zone, NAD 1983**


**Amount of Water:** 2.043 AFY

4) The Defendants have no right to divert and use the public waters of the Zuni River Stream System, Sub-areas 1, 2, and 3, except as set forth in this Order and other Orders entered by the Court in this cause;

5) The Defendants, their successors, representatives, heirs, and assigns, are enjoined from any diversion or use of the public waters of the Zuni River Stream System, Sub-areas 1, 2, and 3, except in strict accordance with this Order and other orders of the Court in this cause; and

6) The water right described herein is adjudicated as between the United States, the State of New Mexico, and the Defendants, subject to the right of any other water right claimant with standing to object prior to the entry of a final decree in this cause.

IT IS SO ORDERED.

  
UNITED STATES DISTRICT JUDGE